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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,733

01/10/2005

Ernst Reder

fmw-cq-pct-us

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28862 7590 01/23/2008
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EXAMINER

KURTZ, BENJAMIN M

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

01/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,733

Applicant(s)

REDER ET AL.

Examiner

Benjamin Kurtz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 13-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 20, 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-19, 21, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-10 and 13-26 are pending, claims 23-26 are new.

Claim Rejections - 35 USC § 102 and 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 6-8, 13, 14, 16, 18 and 25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Greer '612.

Regarding claim 1, Greer teaches a cartridge comprising: a cartridge container (10) with a bottom wall (12) and a peripheral wall and a lid (21), comprised of a lid bottom (22) and a strip shaped lateral wall (26) having a length measured parallel to the peripheral wall and having a linear vertical cross section along the entire length of the lateral wall (the lateral wall is considered to be solely portion (26) excluding portions 27 and 28), with a form matching according to its border, which is fitted at the inner side of the peripheral wall, wherein the lid bottom merges with the lateral wall in the direction of the peripheral wall along an inward curved edge section, wherein the curved edge section and the lateral wall joined in a common wall section tapering inwards, in a

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forming region, wherein a lower end of the common wall section is parallel to the cartridge container peripheral wall adjacent thereto, and wherein the lateral wall has an upper wall section which is connected to and extends upward from the common wall section that is parallel to the common wall section lower end and cartridge container peripheral wall adjacent thereto (fig. 1, 2). The recitation of the cartridge being a filter cartridge with filter material is a recitation of intended use and does not further structurally limit the structure of the container and lid.

Regarding claim 2-4, 6-8, 16 and 18, Greer further teaches the lateral wall is a linear tangent line and wherein the lateral wall is connected with the curved edge section tangentially (fig. 2); the common wall section forms a lower wall section of the lateral wall that includes the lower end (fig. 2); the curved edge section extends up to the inner end of the strip shaped lateral wall (fig. 2); the curved edge section spans an angle from 80 -100 degrees (fig. 1); the lateral upper wall section extends upward from the common wall section at least up to the height of the lid bottom (fig. 1); and the upper wall section of the lateral wall and the curved edge section border on their outer side forming a ring space with a wedge shaped cross section (fig. 2).

Regarding claim 25, Greer teaches a cartridge comprising: a cartridge container (10) with a bottom wall (12) and a peripheral wall and a lid (21), comprised of a lid bottom (22) and a strip shaped lateral wall (26) having a length measured parallel to the peripheral wall and having a linear vertical cross section along the entire length of the lateral wall (the lateral wall is considered to be solely portion (26) excluding portions 27 and 28), with a form matching according to its border, which is fitted at the inner side of

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the peripheral wall, wherein the lid bottom merges with the lateral wall in the direction of the peripheral wall along an inward curved edge section, wherein the curved edge section and the lateral wall joined in a common wall section tapering inwards, in a forming region, wherein a lower end of the common wall section is parallel to the cartridge container peripheral wall adjacent thereto, and wherein the lateral wall has an upper wall section which is connected to and extends upward from the common wall section that is parallel to the common wall section lower end and cartridge container peripheral wall adjacent thereto, wherein the lateral wall is a linear tangent line and wherein the lateral wall is connected with the curved edge section tangentially (fig. 1, 2). The recitation of the cartridge being a filter cartridge with filter material is a recitation of intended use and does not further structurally limit the structure of the container and lid.

Regarding claims 13 and 14, Greer teaches at least one section of the common wall section is joined with the peripheral wall (fig. 1). “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 227 USDQ 964 (1985).

2. Claims 5, 17 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer '612.

Regarding claims 5 and 17, Greer teaches the cartridge but does not teach the claimed dimensional relationship of the curve of radius and the peripheral wall

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thickness. Absent some showing of secondary evidence that the claimed range for the curvature of radius substantially differentiates from the prior art, the claimed recitation is deemed a dimensional change. [W]here the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device, *Gardner v. TEC Systems, Inc.*, 220 USPQ 777 (1984).

Regarding claim 26, Greer teaches a cartridge comprising: a cartridge container (10) with a bottom wall (12) and a peripheral wall and a lid (21), comprised of a lid bottom (22) and a strip shaped lateral wall (26) having a length measured parallel to the peripheral wall and having a linear vertical cross section along the entire length of the lateral wall (the lateral wall is considered to be solely portion (26) excluding portions 27 and 28), with a form matching according to its border, which is fitted at the inner side of the peripheral wall, wherein the lid bottom merges with the lateral wall in the direction of the peripheral wall along an inward curved edge section, wherein the curved edge section and the lateral wall joined in a common wall section tapering inwards, in a forming region, wherein a lower end of the common wall section is parallel to the cartridge container peripheral wall adjacent thereto, and wherein the lateral wall has an upper wall section which is connected to and extends upward from the common wall section that is parallel to the common wall section lower end and cartridge container peripheral wall adjacent thereto (fig. 1, 2). The recitation of the cartridge being a filter cartridge with filter material is a recitation of intended use and does not further

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structurally limit the structure of the container and lid. Greer does not teach the claimed dimensional relationship of the curve of radius and the peripheral wall thickness.

Absent some showing of secondary evidence that the claimed range for the curvature of radius substantially differentiates from the prior art, the claimed recitation is deemed a dimensional change. [W]here the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device, *Gardner v. TEC Systems, Inc.*, 220 USPQ 777 (1984).

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greer '612 in view of Gizowski et al. US 2001/0000894 A1. Greer teaches the cartridge of claim 1 but does not teach the material of the cartridge is transparent to laser light. Gizowski teaches the material of the cartridge container is transparent to laser light and at least the material of the lateral wall of the lid is absorptive to laser light (paragraph 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the materials as taught by Gizowski because it enables increase manufacturing rates and provides a higher quality fluid seal (paragraph 7).

4. Claims 9, 10, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer '612 in view of Stifano US 4 109 820.

Regarding claims 9 and 19, Greer teaches the cartridge but does not teach a back up ring. Stifano teaches a cartridge having a lid further comprising a back up ring arranged on the lid (col. 3, lines 32-34), the back up ring has an inner wall comprising a

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ring opening (25) an outer lateral wall in contact with the lid lateral wall and a plurality of radial reinforcing ribs (14) extending between the back up ring inner wall and the back up ring outer lateral wall (fig. 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the back up ring of Stifano because the ring redirects the pressure within the container to the walls and makes a stronger seal (col. 3, lines 46-56).

Regarding claim 10, Stifano further teaches at least a bottom contour of the back up ring is connected to the back up ring inner wall and the back up ring outer lateral wall and is built such that the bottom contour is complementary to an outer contour of the lid (fig. 6).

Regarding claim 21, Greer further teaches the lid includes a connecting tube at its center and Stifano also teaches the lid including a connecting tube (25) accessible through the ring opening of the back up ring (Greer (fig. 1), Stifano (fig. 6)).

5. Claims 1-8, 13, 14, 16, 18, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlensker et al. WO 02/38247 A1 (US 6 936 084 for English translation).

Regarding claim 1, Schlensker teaches a filter cartridge with a filter material, comprising: a cartridge container (20) with a bottom wall (22) and a peripheral wall and a lid (24), comprised of a lid bottom and a strip-shaped lateral wall having a length measured parallel to the peripheral wall and having a linear vertical cross section along a part of the lateral wall, with a form matching according to its border, which is fitted at the inner side of the peripheral wall, whereby the lid bottom merges with the lateral wall

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in the direction of the peripheral wall along an inward curved edge section, whereby the curved edge section and the lateral wall join in a common wall section, tapering inwards, in a forming region, wherein a lower end of the common wall section is parallel to the cartridge container peripheral wall adjacent thereto, and wherein the lateral wall has an upper wall section which extends upward from the common wall section that is parallel to the common wall section lower end and cartridge container peripheral wall adjacent thereto (fig. 1). Schlensker does not teach the lateral wall having a linear cross section along its entire length. Making the lateral wall linear is merely a change in shape of the lateral wall. The configuration of the apparatus is a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration is significant, *In re Dailey*, 149 USPQ 47 (1966).

Regarding claims 2-4, 6-8, 16 and 18, Schlensker further teaches the lateral wall is connected with the curved edge section tangentially (fig. 1); the common wall section forms a lower wall section of the lateral wall that includes the lower end (fig. 1); the curved edge section extends up to the inner end of the strip-shaped lateral wall (fig. 1); the curved edge section spans an angle from 80 to 100 degrees (fig. 1); the lateral wall upper wall section extends upward from the common wall section at least up to the height of the lid bottom (fig. 1); and wherein the upper wall section of the lateral wall and the curved edge section border on their outer side forming a ring space with a wedge shaped cross section (fig. 1).

Regarding claims 13 and 14, Schlensker teaches at least one section of the common wall section is joined with the peripheral wall (fig. 1). “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 227 USDQ 964 (1985).

Regarding claims 5 and 17, Schlensker teaches the filter cartridge but does not teach the claimed dimensional relationship of the curve of radius and the peripheral wall thickness. Absent some showing of secondary evidence that the claimed range for the curvature of radius substantially differentiates from the prior art, the claimed recitation is deemed a dimensional change. [W]here the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device, *Gardner v. TEC Systems, Inc.*, 220 USPQ 777 (1984).

Regarding claim 25, Schlensker teaches a filter cartridge with a filter material, comprising: a cartridge container (20) with a bottom wall (22) and a peripheral wall and a lid (24), comprised of a lid bottom and a strip-shaped lateral wall having a length measured parallel to the peripheral wall and having a linear vertical cross section along part of the length of the lateral wall, with a form matching according to its border, which

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is fitted at the inner side of the peripheral wall, whereby the lid bottom merges with the lateral wall in the direction of the peripheral wall along an inward curved edge section, whereby the curved edge section and the lateral wall join in a common wall section, tapering inwards, in a forming region, wherein a lower end of the common wall section is parallel to the cartridge container peripheral wall adjacent thereto, and wherein the lateral wall has an upper wall section which extends upward from the common wall section that is parallel to the common wall section lower end and cartridge container peripheral wall adjacent thereto and the lateral wall is connected with the curved edge section tangentially (fig. 1). Schlensker does not teach the lateral wall having a linear cross section along its entire length. Making the lateral wall linear is merely a change in shape of the lateral wall. The configuration of the apparatus is a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration is significant, *In re Dailey*, 149 USPQ 47 (1966).

Regarding claim 26, Schlensker teaches a filter cartridge with a filter material, comprising: a cartridge container (20) with a bottom wall (22) and a peripheral wall and a lid (24), comprised of a lid bottom and a strip-shaped lateral wall having a length measured parallel to the peripheral wall and having a linear vertical cross section along part of the length of the lateral wall, with a form matching according to its border, which is fitted at the inner side of the peripheral wall, whereby the lid bottom merges with the lateral wall in the direction of the peripheral wall along an inward curved edge section, whereby the curved edge section and the lateral wall join in a common wall section,

tapering inwards, in a forming region, wherein a lower end of the common wall section is parallel to the cartridge container peripheral wall adjacent thereto, and wherein the lateral wall has an upper wall section which extends upward from the common wall section that is parallel to the common wall section lower end and cartridge container peripheral wall adjacent thereto (fig. 1). Schlensker does not teach the claimed dimensional relationship of the curve of radius and the peripheral wall thickness.

Absent some showing of secondary evidence that the claimed range for the curvature of radius substantially differentiates from the prior art, the claimed recitation is deemed a dimensional change. [W]here the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device, *Gardner v. TEC Systems, Inc.*, 220 USPQ 777 (1984). Schlensker does not teach the lateral wall having a linear cross section along its entire length. Making the lateral wall linear is merely a change in shape of the lateral wall. The configuration of the apparatus is a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration is significant, *In re Dailey*, 149 USPQ 47 (1966).

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schlensker '247 in view of Gizowski et al. US 2001/0000894 A1. Schlensker teaches the filter cartridge of claim 1 but does not teach the material of the cartridge is transparent to laser light. Gizowski teaches the material of the cartridge container is

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transparent to laser light and at least the material of the lateral wall of the lid is absorptive to laser light (paragraph 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the materials as taught by Gizowski because it enables increase manufacturing rates and provides a higher quality fluid seal (paragraph 7).

7. Claims 9, 10, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlensker '247 in view of Stifano US 4 109 820.

Regarding claims 9 and 19, Schlensker teaches the filter cartridge but does not teach a back up ring. Stifano teaches a cartridge having a lid further comprising a back up ring arranged on the lid (col. 3, lines 32-34), the back up ring has an inner wall comprising a ring opening (25) an outer lateral wall in contact with the lid lateral wall and a plurality of radial reinforcing ribs (14) extending between the back up ring inner wall and the back up ring outer lateral wall (fig. 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the back up ring of Stifano because the ring redirects the pressure within the container to the walls and makes a stronger seal (col. 3, lines 46-56).

Regarding claim 10, Stifano further teaches at least a bottom contour of the back up ring is connected to the back up ring inner wall and the back up ring outer lateral wall and is built such that the bottom contour is complementary to an outer contour of the lid (fig. 6).

Regarding claim 21, Schlensker further teaches the lid includes a connecting tube at its center and Stifano also teaches the lid including a connecting tube (25)

accessible through the ring opening of the back up ring (Schlensker (fig. 1), Stifano (fig. 6)).

Response to Arguments

8. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed 11/19/07 have been fully considered but they are not persuasive. Regarding claim 2, the lid of Schlensker curves complete 90 degrees until it is parallel to the peripheral wall. At this point the curved section is joined to the lateral wall and is a tangent line to the curve. Furthermore, comparing the applicant's figures and the figure of Schlensker the same structure is present.

Regarding claim 5, Schlensker teaches a radius of curvature and a thickness of the peripheral wall but does not teach the relationship between the two. Applicant claims a certain relationship that relates to the relative dimension of the apparatus. A simple change in dimension is not patentable over the prior art without a showing of secondary evidence that the claimed relationship is non-obvious over the prior art. The applicant has not provided sufficient evidence that the claimed dimensions offer a non-obvious result.

Regarding claims 9, 10, 19 and 21, the backup ring as taught by Stifano may be a separate distinct structure thereby fulfilling the claimed limitations (col. 3, lines 31-33).

Allowable Subject Matter

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10. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 23, 24 and 20 are allowed.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Kurtz whose telephone number is 571-272-8211. The examiner can normally be reached on Monday through Friday 8:00am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin Kurtz
Patent Examiner
Art Unit 1797

1/18/08 /BK/

A handwritten signature in black ink, appearing to read 'Krishnan Menon', with a stylized, cursive script.

KRISHNAN MENON
PRIMARY EXAMINER